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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/157904

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 27, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on July 15, 2014, at West Bend, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's FS benefits effective June 1, 2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Julie Williamson

Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. Petitioner's household size was 2 adults and 3 children until mid-July, 2014 when her oldest daughter moved out of the household.

3. On May 5, 2014, the agency issued a Notice of Decision to the Petitioner informing her that the household is not eligible for FS benefits effective June 1, 2014. The agency budgeted \$370/week for Petitioner's unemployment compensation benefits, \$45.50/month for child support for each of two children, \$1,450.90/month for Petitioner's husband's social security income and \$363/month for one child's social security income. Total household income was \$3,495.90.
4. Petitioner's shelter expense is \$1,175/month. The Petitioner's husband has a medical premium of \$104.90/month.
5. On May 27, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

The gross income limit for a 5 person "categorical eligibility tested" household is \$4,596. See, FoodShare Wisconsin Handbook, § 8.1.1.1. Here, the Petitioner's household passes the categorical eligibility test with gross household income of \$3,495.90. However, the household must also pass the net income test to receive benefits.

In determining the amount of FS a household is eligible for with the net income test, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$191 per month for a five-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

The Petitioner did not point to any error in the agency's calculation of the household income. The agency deducted the standard deduction of \$191, an excess medical deduction of \$69.90 (\$109.90 - \$35), and a shelter deduction of \$7.50. The Petitioner's adjusted net income is \$3,227.50. The net income limit for benefits is \$2,298.

The Petitioner has not pointed to any specific relevant error. She notes that the household income is limited and asked for equitable consideration. I recognize the Petitioner's circumstances but I have no equitable authority and must apply the FS regulations as they are written. I did review the agency's calculations and determined that they are correct.

As dicta, I note that the Petitioner reported she has recently started working part-time and her oldest daughter has moved out of the house. She just reported the changes to the agency and the agency will be issuing a new determination regarding how those changes affect her benefits. The Petitioner was advised that she will have separate appeal rights regarding those new determinations.

### **CONCLUSIONS OF LAW**

The agency properly discontinued the Petitioner's FS benefits for income over the net income limit.

**THEREFORE, it is**

**ORDERED**

The Petitioner's appeal is dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 21st day of July, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 21, 2014.

Washington County Department of Social Services  
Division of Health Care Access and Accountability